

the fiscal year for which the funds were appropriated, equal to the per-child amount the agency received under that subpart for fiscal year 1994.

(b) The number of children counted under paragraph (a)(1)(i) of this section may not exceed the number of children aged 3 through 21 for whom the agency received fiscal year 1994 funds under subpart 2 of Part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as in effect in fiscal year 1994).

(Authority: 20 U.S.C. 1411(g)(3))

§ 300.714 Reallocation of LEA funds.

If an SEA determines that an LEA is adequately providing FAPE to all children with disabilities residing in the area served by that agency with State and local funds, the SEA may reallocate any portion of the funds under Part B of the Act that are not needed by that local agency to provide FAPE to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas they serve.

(Authority: 20 U.S.C. 1411(g)(4))

§ 300.715 Payments to the Secretary of the Interior for the education of Indian children.

(a) *Reserved amounts for Secretary of Interior.* From the amount appropriated for any fiscal year under 611(j) of the Act, the Secretary reserves 1.226 percent to provide assistance to the Secretary of the Interior in accordance with this section and § 300.716.

(b) *Provision of amounts for assistance.* The Secretary provides amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of the payment for any fiscal year is equal to 80 percent of the amount allotted under paragraph (a) of this section for that fiscal year.

(c) *Calculation of number of children.* In the case of Indian students aged 3 to 5, inclusive, who are enrolled in programs affiliated with the Bureau of In-

dian Affairs (BIA) schools and that are required by the States in which these schools are located to attain or maintain State accreditation, and which schools have this accreditation prior to the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991, the school may count those children for the purpose of distribution of the funds provided under this section to the Secretary of the Interior.

(d) *Responsibility for meeting the requirements of Part B.* The Secretary of the Interior shall meet all of the requirements of Part B of the Act for the children described in paragraphs (b) and (c) of this section, in accordance with § 300.260.

(Authority: 20 U.S.C. 1411(c); 1411(i)(1)(A) and (B))

§ 300.716 Payments for education and services for Indian children with disabilities aged 3 through 5.

(a) *General.* With funds appropriated under 611(j) of the Act, the Secretary makes payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of those tribes or tribal organizations to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of the payments under paragraph (b) of this section for any fiscal year is equal to 20 percent of the amount allotted under § 300.715(a).

(b) *Distribution of funds.* The Secretary of the Interior shall distribute the total amount of the payment under paragraph (a) of this section by allocating to each tribe or tribal organization an amount based on the number of children with disabilities ages 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

(c) *Submission of information.* To receive a payment under this section, the